

STATE OF VERMONT
PUBLIC SERVICE BOARD

Dig Safe Notice No. 773

In Re: Buck Adams Trucking and Excavating, Alleged)
Violation of June 8, 2010, as reported by Vermont)
Telephone Company, Inc.)

Order entered: 9/13/2011

ORDER RE: NOTICE OF PROBABLE VIOLATION

Background

1. Pursuant to 30 V.S.A. § 7001 et. seq., and Vermont Public Service Board Rule 3.800, the Vermont Department of Public Service ("Department") issued a Notice of Probable Violation of Underground Utility Damage Prevention System ("NOPV") to Buck Adams Trucking and Excavating ("Respondent").
2. Incident Date: June 8, 2010
3. Incident Location: 644 Crow Hill Road, Chester, VT
4. Name and Address of Company that Reported the Incident to the Department: Vermont Telephone Company, Inc., 354 River Street, Springfield, VT 05156-2005
5. Date Incident Reported to Effected Utility: June 9, 2010
6. Date NOPV issued by Department: June 17, 2011 (#1850)
7. Department's Statement of Evidence Supporting the Alleged Violation: "The Department of Public Service investigated this incident and determined the following details. On 6/8/10, Buck Adams Trucking and Excavating was digging with a backhoe for an addition at this site. Vermont Telephone had accurately located and marked its underground facilities in the area of the proposed excavation. The paint marks were clearly visible at the time of excavation. Buck Adams Trucking and Excavating used the backhoe to dig within 18" of the marks. This digging resulted in a service wire being struck by the backhoe bucket and damaged with a subsequent loss of service to the homeowner for 2 hours. Buck Adams Trucking and Excavating notified VTEL of the damaged facility. The Department of Public Service issued 0 Notices of Probable Violation (NOPVs) to Buck Adams Trucking and Excavating during the 12 months preceding this incident."

8. Statute, Rule, Regulation or Order Allegedly violated: 30 V.S.A. § 7004
9. The Department's Recommended Remedial Action(s) (Including Civil Penalties): Civil penalty in the amount of Three Hundred Dollars (\$300.00), and attendance at a Department-approved underground damage prevention seminar.
10. The Respondent has agreed to take the remedial action(s) recommended by the Department.¹

Conclusion and Order

Because the Respondent has not contested the NOPV, or the allegations therein, we conclude that the remedial action proposed in the NOPV is appropriate, and should be imposed.²

WHEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Public Service Board of the State of Vermont that:

(1) Within thirty days of the date of this Order, Buck Adams Trucking and Excavating shall pay a civil penalty in the amount of Three Hundred Dollars (\$300.00) by submitting to the Public Service Board a check in that amount made payable to the State of Vermont, and sent to the Public Service Board at 112 State Street, Montpelier, VT 05620-2701; and

(2) Buck Adams Trucking and Excavating shall attend an Underground Damage Prevention Seminar at such time and place as determined by the Vermont Department of Public Service.

1. *See*, Respondent's filing of 7/8/11.

2. *See*, Public Service Board Rule 3.807(G).

Dated at Montpelier, Vermont, this 13th day of September, 2011.

s/ James Volz)

) PUBLIC SERVICE

s/ David C. Coen)

) BOARD

s/ John D. Burke)

) OF VERMONT

OFFICE OF THE CLERK

FILED: September 13, 2011

ATTEST: s/ Susan M. Hudson
Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)

Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further Order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.